

Memorandum

To: DISTRICT DIRECTORS
DISTRICT DIVISION CHIEFS - TRAFFIC OPERATIONS
DISTRICT DIVISION CHIEFS - PLANNING

Date: October 18, 2000

File No.: E-206 (Environmental)
655 (Enc. Permits)

From: DEPARTMENT OF TRANSPORTATION
TRAFFIC OPERATIONS PROGRAM (MS 36)
ENVIRONMENTAL PROGRAM (MS 27)
TRANSPORTATION PLANNING PROGRAM (MS 32)

Subject: Review of Encroachments

As stewards of the cultural and biological resources within our right-of-way, we are requesting that your district ensure that permit applicants comply with environmental law – and that Caltrans Encroachment Permit, Environmental, and Transportation Planning offices understand the critical importance of this compliance. Pre-construction identification of environmental resources allows for preservation of the resource by avoidance, or for mitigation of impacts, as required by law and Caltrans environmental policy. Accidental discovery of resources during construction not only damages the resource, but also affects Caltrans' credibility and relationships with resource agencies, Indian tribes, and other concerned parties.

We are requesting that you ensure that encroachments receive appropriate environmental review. To help you determine what is appropriate, the following guidelines are intended to clarify the environmental requirements for encroachment permits that are detailed in Chapter 4 of the *Encroachment Permit Manual*.

- All encroachment permit applications for projects in designated Environmentally Sensitive Areas (ESAs), or that may affect original ground, *whether or not* the area has been designated as an ESA, shall be reviewed by the appropriate District environmental specialists – even if the project appears categorically exempt under the California Environmental Quality Act (CEQA). The depth of proposed excavation must be considered in determining if the project will affect "original ground"; projects such as utility installations may involve soil disturbances to depths of five feet or more. The District's permit and environmental offices may develop written agreements or checklists identifying situations when environmental's review of such projects will not be necessary.
- The District Intergovernmental Review (IGR) Coordinator shall coordinate with the District environmental specialists when reviewing environmental documents for projects with encroachment potential. The opportunity to comment on such documents prior to receipt of the actual permit application should result in a more timely review when the actual permit application is submitted. The District IGR coordinator shall include the environmental specialist's comments regarding environmental compliance and documentation requirements in the District's comment letter to the lead agency. Additionally, the District IGR coordinator shall include the comment that the lead agency is encouraged to contact the Native American Heritage Commission (NAHC) for advice on consulting with Native Americans regarding any cultural concerns within the project area. If a project is within or contiguous to a reservation or rancheria, the district's comments shall include a recommendation that the tribe be contacted. A list of California Indian Reservations and Rancherias is attached for your use.

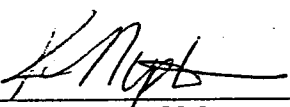
October 18, 2000

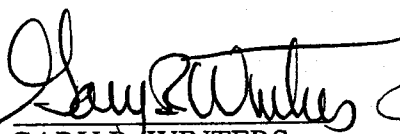
The District Permit Engineer shall ensure that all encroachment permit applications for projects that may affect original ground are forwarded to the appropriate district environmental unit for review. In addition, the Permit Engineer shall ensure that the environmental unit is notified of all changes to plans, specifications and permit provisions. The Permit Engineer shall refer the applicant to General Provision 26. This provision requires that work stops in the vicinity of any discovered archaeological or historical resource, and that the applicant immediately notify the Department representative and retain a qualified archaeologist to evaluate the site. Additionally, if human remains are uncovered, the applicant is to immediately notify the Coroner as required per Health and Safety Code 7050.5, and the Department representative. If the remains are Native American, the coroner is to contact the NAHC as required by Public Resources Code 5097.98. To ensure that this contact is made, the District representative is also to notify the NAHC. No further action shall occur in the vicinity until agreed to by the NAHC or most likely descendent and the Department.

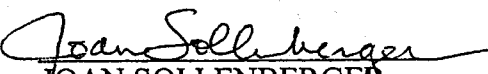
- The District environmental specialists shall review encroachment permit applications as well as draft environmental documents that may involve encroachment to verify that the applicant has performed adequate and appropriate research to identify environmental resources. Encroachment permit applicants are required to comply with CEQA, and to adhere to the same standards for investigation and documentation as Caltrans staff. These standards include literature and relevant database reviews and field surveys for biological and cultural resources. For cultural resources, the applicant is also expected to contact: (1) the Regional California Historical Resource Information Center to obtain information on known archaeological and historical sites; and (2) the Native American Heritage Commission to request its review of the sacred lands inventory, and to obtain a list of the Native Americans that have cultural concerns in the project area.
- The District environmental specialists shall review environmental documents and permit applications in a timely manner, and shall ensure that the IGR Coordinator and/or Permit Engineer are fully informed of any environmental issues and permit restrictions.

Thank you for your assistance in helping us fulfill our encroachment permit, environmental and IGR responsibilities. If you have any questions about these procedures, please contact:

- Paul Cavanaugh (Headquarters Encroachment Permit Branch): (916) 654-6232, or 8-464-6232
- Tina Biorn (Headquarters Environmental Program): (916) 653-0013, or 8-453-0013
- Bill Costa (Headquarters Intergovernmental Review): (916) 653-9689, or 8-453-9689
- Cynthia Gomez (Headquarters Transportation Planning-Native American Liaison): (916) 654-2389, or 8-464-2389.


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Attachment

- c: Larry Myers, Native American Heritage Commission; District Environmental Branch Chiefs; District Planning Branch Chiefs; District Permit Engineers